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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,432	04/30/2001	David Blaker	9387-2	2529
20792 7590 02/06/2009 MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				
EXAMINER				
AHLUWALIA, NAVNEET K				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* DAVID BLANKER and DAN WINKELSTEIN

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Application 09/845,432  
Technology Center 2100

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Mailed: February 6, 2009

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Before VASCO S. HARPER, *Paralegal Specialist*  
HARPER, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, STATUS OF CLAIMS

A review of the file finds that the status of the claims as provided in the Examiner's Answer mailed January 16, 2008 under the heading "Status of Claims" is unclear and/or is not consistent with the status of claims of record. See *Manual of Patent Examining Procedure* (MPEP) § 1207.02 (A)(3) (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

On page 2 of the Answer under the "(3) Status of Claims" heading the Examiner states that Appellants' statement of the status of claims is incorrect and adds a correction that "Claims 6-9 are objected to as being dependent on a rejected base claim, but would be allowable if . . . rewritten in independent form . . . ." However, on page 10 of the Final Rejection mailed May 21, 2007 and page 8 of the Answer under the Heading "*Allowable Subject Matter*", the Examiner states that "Claims 7-9 would be allowable if rewritten . . . ." We assume the inclusion of claim 6 in the allowable subject matter on page 2 of the Answer to be a typo or oversight. However, clarification is required to correct the discrepancy.

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) file a miscellaneous paper (PTOL 90) clarifying the status of claim 6 ; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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